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**FILED**

SEP 10 2009

**SURFACE  
TRANSPORTATION BOARD**

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**SURFACE  
TRANSPORTATION BOARD**

September 10, 2009

BY HAND

Hon. Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423-2001

ENTERED  
Office of Proceedings

SEP 10 2009

Part of  
Public Record



**RE: STB Finance Docket No. 35296, Anthony Macrie-Continuance  
in Control Exemption**

**STB Finance Docket No. 35297, New Jersey Seashore Lines, Inc.-  
Operation Exemption**

Dear Ms. Quinlan:

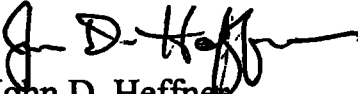
I am submitting on behalf of Anthony Macrie and New Jersey Seashore Lines, Inc., respectively, an original and ten copies of the following documents:

- (1) in FD. No. 35296, a Verified Notice of Exemption under 49 CFR 1180.2(d)(2) for Anthony Macrie to continue in control of New Jersey Seashore Lines, Inc., and Cape May Seashore Lines, Inc., and
- (2) in FD. No. 35297, Verified Notice of Exemption under 49 CFR 1150.31 for New Jersey Seashore Lines, Inc., to operate a line of railroad owned by Clayton Industries, Inc.

I am enclosing with this filing a filing fee check for \$3100 to cover the applicable fees as well as a copy of each document on a computer diskette formatted in MS Word. You may contact me if you have any questions.

Please date stamp and return one copy of each filing and the extra copy of this letter.

Sincerely yours,



John D. Heffner

Enclosure

cc: Anthony Macrie

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**STB FINANCE DOCKET NO. 35296**

**ANTHONY MACRIE  
-- CONTINUANCE IN CONTROL EXEMPTION  
NEW JERSEY SEASHORE LINES, INC., AND  
CAPE MAY SEASHORE LINES, INC.**

**VERIFIED NOTICE OF EXEMPTION  
UNDER 49 CFR §1180.2(d) (2)**



Submitted By:

John D. Heffner  
John D. Heffner, PLLC  
1750 K Street, N.W.  
Suite 200  
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(202) 296-3333

Counsel for Petitioner

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Office of Proceedings

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**ORIGINAL**

**FILED**

SEP 10 2009

**SURFACE  
TRANSPORTATION BOARD**

Dated: September 10, 2009

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**SURFACE  
TRANSPORTATION BOARD**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**STB FINANCE DOCKET NO. 35296**

**ANTHONY MACRIE  
-- CONTINUANCE IN CONTROL EXEMPTION --  
NEW JERSEY SEASHORE LINES, INC., AND  
CAPE MAY SEASHORE LINES, INC.**

**VERIFIED NOTICE OF EXEMPTION  
UNDER 49 CFR §1180.2(d) (2)**

Comes now Anthony Macrie (“Petitioner”) and states as follows:

1. Pursuant to the provisions of Section 1180 of the Board's Railroad Consolidation Rules, 49 C.F.R. §1180 et seq., Petitioner hereby gives notice of a transaction which qualifies for exemption under §1180.2 of those rules.

2. As may be relevant here, Petitioner is an individual and a noncarrier who currently own 100% of the common stock of Cape May Seashore Lines, Inc. (“CMSL”), an existing class III short line railroad common carrier subject to the I.C.C. Termination Act (“ICCTA”).<sup>1</sup>

3. New Jersey Seashore Lines, Inc. (“NJSL”), is currently a corporation established under the laws of the State of New Jersey for the purpose of owning, leasing, and operating railroads. Petitioner owns 100%

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<sup>1</sup> CMSL is a class III short line railroad established pursuant to authority granted by the Board in Cape May Seashore Lines, Inc.-Modified Rail Certificate, STB Finance Docket No. 34112, served November 19, 2001. A copy of a decision is attached hereto as Exhibit A.

of the common stock of NJSL.

4. Presently a noncarrier, NJSL is submitting a Verified Notice of Exemption to the Board under 49 CFR 1150.31 and 49 U.S.C. 10901 to operate a line of railroad (“the Line”) owned by a rail shipper, Clayton Industries, Inc (“Clayton”).<sup>2</sup> Clayton purchased it from Consolidated Rail Corporation after that company obtained abandonment authority for the Line.

4. Petitioner seeks Board authorization by exemption here to engage in a transaction whereby he will control both CMSL and NJSL upon the latter’s consummating the railroad operating authority it seeks in FD. No. 35297.

5. Under Section 1180.2(d)(2) of the Board's consolidation rules certain transactions are automatically exempt from the prior approval requirements for common control under 49 U.S.C. §§11323 - 11324. Specifically, Section 1180.2(d)(2) exempts the continuance-in-control of a nonconnecting carrier where (i) the railroads will not connect with each other or any railroad in their corporate family, (ii) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (iii)

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<sup>2</sup> The Line is a segment of a line originally known as the Central Railroad Company of New Jersey’s Southern Division. The Board has docketed the companion operation exemption proceeding as Finance Docket No. 35297.

the transaction does not involve a class I carrier.

6. The rail lines operated or to be operated by CMSL and NJSL do not physically connect and there are no plans to acquire additional rail lines for the purpose of making a connection. As noted above, CMSL is presently a class III short line railroad and NJSL will become a class III short line railroad once it consummates the requested operating authority. Although each of these two carriers operates or will operate in the State of New Jersey, the lines of the two carriers are at least 50 miles apart at the closest point.

7. In order to claim the Section 1180.2(d)(2) exemption, Section 1180.4(g) requires the filing of a verified notice of exemption furnishing the information requested in Sections 1180.6(1)(i)-(iii); 1180.6(5)-(6); and 1180.6(a)(7)(ii) of those rules and indicating the level of protection required.

Information about the carriers:

49 C.F.R. §1180.6(a)(1)(i)

Name: Cape May Seashore Lines, Inc.

Address: 591 Greenwood Drive,  
Hammonton, NJ 08037

Telephone: (609) 602-1264

Name: New Jersey Seashore Lines, Inc.

Address: 591 Greenwood Drive,  
Hammonton, NJ 08037

Telephone: (609) 602-1264

Legal counsel to whom questions should be addressed:

John D. Heffner  
John D. Heffner, PLLC  
1750 K Street, N.W.  
Suite 200  
Washington, D.C. 20006  
Tel.: (202) 296-3333

Schedule for consummation: 49 C.F.R. §1180.6(a)(1)(ii)

October 10, 2009

Purpose to be accomplished by the transaction: 49 C.F.R. §1180.6(a)(1)(iii)

To restore to common carrier service what is currently an out of service industry track. NJSL will provide common carrier service to Clayton and any other industries that it induces to locate on the Line as well as possible excursion passenger service.

State(s) where proposed operations will be conducted: 49 C.F.R. 1180.6(a)(5)

New Jersey

Map showing relationship between CMSL and NJSL: 49 C.F.R. §1180.6(a)(6)

Attached hereto as Exhibit B.


Copy of Agreement: 49 C.F.R. §1180.6(a)(7)(ii)

NA. There is no agreement covering the common ownership of these two carriers.

8. Related Transaction. Concurrently with this filing, NJSL is submitting a Verified Notice of Exemption under 49 CFR 1151.31 whereby it seeks to operate the Line owned by Clayton.

9. This acquisition of control proceeding is exempt from environmental review under 49 CFR §1105.6(c)(2)(i) because the proposed action will not cause any operating changes that exceed the threshold established in 49 C.F.R. §1105.7(e)(4) or (5). In addition, this proceeding is exempt from historic review under 49 C.F.R. §1105.8(b)(i) because there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older as this trackage was recently built. Accordingly, no historic report is required.

10. Labor protection required: None. Under 49 U.S.C. 11326 transactions between class III rail carriers are not subject to labor protection.

Submitted By  
  
John D. Heffner  
John D. Heffner, PLLC  
1750 K Street, N.W.  
Suite 200  
Washington, D.C. 20006  
(202) 296-3333

Counsel for Petitioner

Dated: September 10, 2009



## EXHIBIT A

32270

SERVICE DATE - NOVEMBER 19, 2001

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34112]

Cape May Seashore Lines, Inc.—Modified Rail Certificate

On October 22, 2001, Cape May Seashore Lines, Inc. (CMSL), a noncarrier, filed an application<sup>1</sup> for a modified certificate of public convenience and necessity under 49 CFR 1150, Subpart C, Modified Certificate of Public Convenience and Necessity, to operate approximately 28.94 miles of rail line on the Cape May Branch between milepost 51.87 at Tuckahoe, NJ, and milepost 80.0 at Cape May City, NJ, and on the Cape May Point Branch between milepost 0.0 at Cape May City and milepost 2.6 at Cape May Point. Consolidated Rail Corporation (Conrail) owned and operated the line until September 15, 1978, when it was sold to the Commuter Operating Agency of the New Jersey Department of Transportation pursuant to sections 206(c)(1)(D) and 206(d)(5)(C) of the Regional Rail Reorganization Act of 1973, as amended, 45 U.S.C. 701 et seq. It is CMSL's understanding that Conrail continued to provide freight service over the line until June 10, 1983, when Conrail obtained authority from the former Interstate

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<sup>1</sup> CMSL concurrently filed redacted and unredacted versions of its application, along with a request for a protective order. A protective order limiting access to and use of applicant's confidential information contained in its unredacted filing was served on November 2, 2001.

Commerce Commission to terminate operations over the line.<sup>2</sup>

CMSL also states that after Conrail terminated its operations, The Shore Fast Line, Inc.,<sup>3</sup> a Class III short line railroad, provided freight service on the line. This carrier was subsequently replaced by the Southern Railroad of New Jersey.

On May 21, 1999, CMSL entered into a long term lease agreement with the New Jersey Transit Authority (NJT), successor to the New Jersey DOT's Commuter Operating Agency, to provide excursion passenger service on the line. This agreement was modified on May 22, 2001, to give CMSL the sole and exclusive right to operate both excursion passenger and common carrier freight service. The initial term of the lease between CMSL and NJT is for approximately 30 years, from May 21, 1999, to July 31, 2029.

The line connects with the Conrail Shared Assets Operation at milepost 51.87 at Tuckahoe, NJ, providing customers with access to both CSX Transportation, Inc. and Norfolk Southern Railroad Company. CMSL will initially provide freight service over the line on an as-needed basis, and will expand this service as conditions warrant.

The rail segment qualifies for a modified certificate of public convenience and necessity. See Common Carrier Status of States, State Agencies and Instrumentalities

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<sup>2</sup> See Conrail Abandonment in Cape May County, NJ, Docket No. AB-167 (Sub-No. 478) (ICC served July 1, 1983).

<sup>3</sup> See generally, Better Materials Corporation and J.C. McHugh-Control Exemption-The Shore Fast Line, Inc., and The Shore Fast Line, Inc.-Operation and Commodities Clause Exemption, Finance Docket No. 30156 et al., (ICC served May 3, 1983).

STB Finance Docket No. 34112

and Political Subdivision, Finance Docket No. 28990F (ICC served July 16, 1981).

CMSL indicates that no subsidy is involved, that there are no preconditions for shippers to meet in order to receive rail service, and that it has obtained liability insurance coverage.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement: Association of American Railroads, 50 F Street NW, Washington, DC 20001; and on the American Short Line and Regional Railroad Association: American Short Line and Regional Railroad Association, 1120 G Street NW, Suite 520, Washington, DC 20005.

Decided: November 7, 2001.

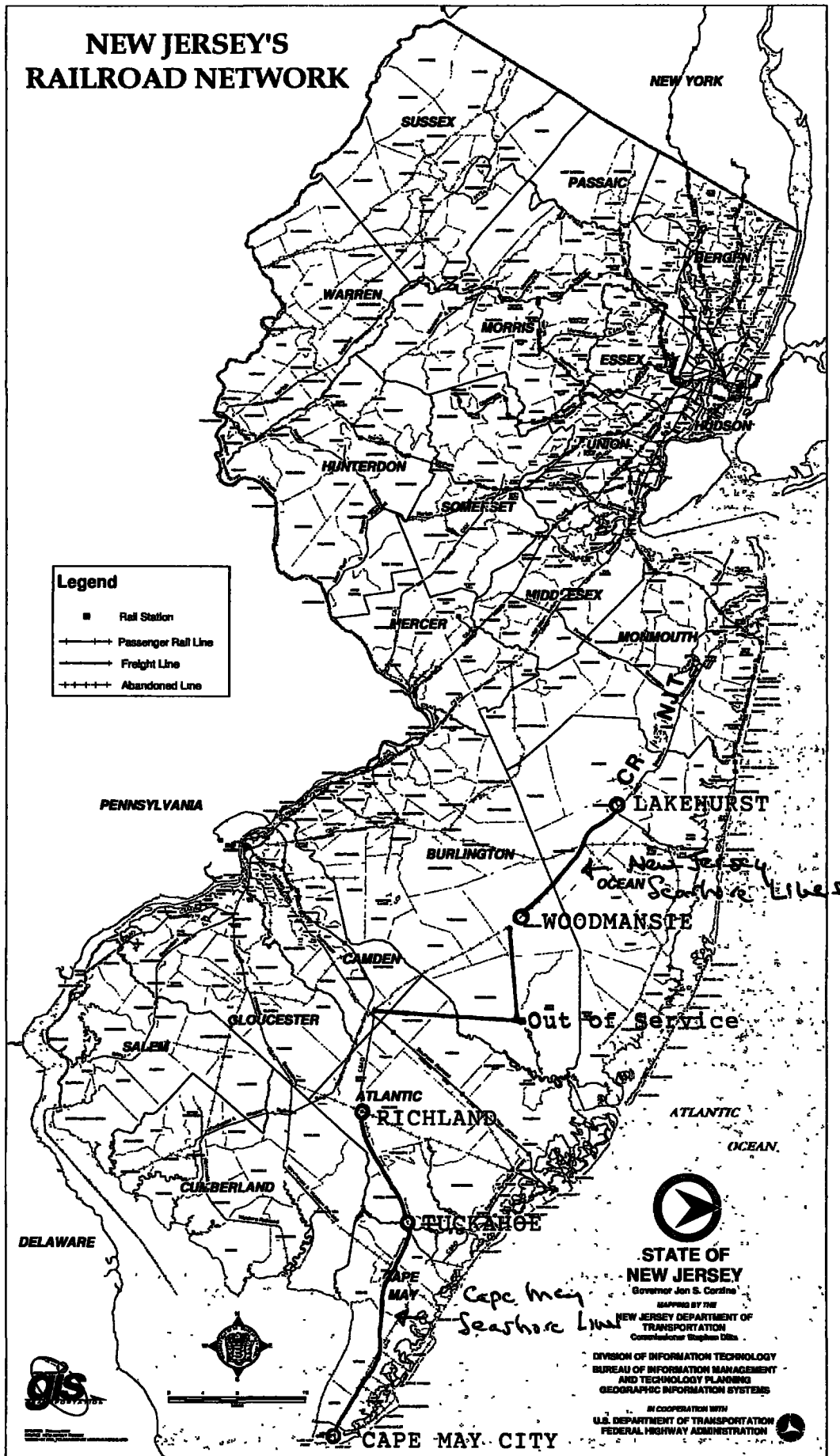
By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary

## **EXHIBIT B**

# NEW JERSEY'S RAILROAD NETWORK



**VERIFICATION**

STATE OF NEW JERSEY )

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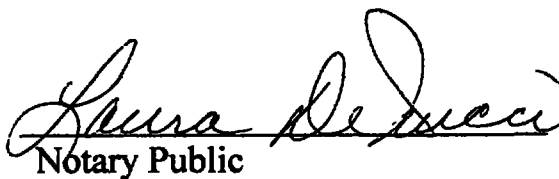
SS

COUNTY OF ATLANTIC )

ANTHONY C. MACRIE, being duly sworn according to law, hereby deposes and states that he is authorized to make this Verification, has read the foregoing document, and knows the facts asserted therein are true and accurate as stated, to the best of his knowledge, information, and belief.

  
ANTHONY C. MACRIE

Subscribed to and sworn to before me, a Notary Public, in and for the State of New Jersey, County of Atlantic, this ~~4th~~ day of September, 2009.

  
Notary Public

My commission expires:

7/22/13

